

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: DONALDSON M. SIMONS : Chapter 13**

**Debtor : Bky. No. 09-17095 ELF**

**ORDER**

**AND NOW, WHEREAS** 11 U.S.C. §109(h)(1) requires that an individual may not be a debtor in a bankruptcy case unless, within the 180 day period before the filing of the bankruptcy petition, the individual has received an individual or group briefing from an approved nonprofit budget and credit counseling agency as described in 11 U.S.C. §111(a),

**AND**, 11 U.S.C. §109(h)(3) provides that a debtor may be exempted temporarily from the requirements of 11 U.S.C. §109(h)(1) for a thirty (30) day period after the filing of the petition if the debtor submits a Certification which satisfies the requirements of 11 U.S.C. §109(h)(3)(A)(i), (ii) and (iii),

**AND**, 11 U.S.C. §109(h)(4) provides that, after a notice and hearing, the court may determine that the requirements of 11 U.S.C. §109(h)(1) shall not apply to a debtor because of incapacity, disability, or active military duty in a military combat zone,

**AND**, it appears that the Debtor filed the bankruptcy petition in this case without receiving a prepetition credit briefing as required by 11 U.S.C. §109(h)(1) and has filed a Certification, but the Certification does not satisfy the requirements of 11 U.S.C. §109(h)(3)(A)(i), (ii) and (iii) and the Debtor has not made a request for a determination under 11 U.S.C. §109(h)(4),

**AND**, Notice having been given to the Debtor(s) by the Court's Order dated September 25, 2009 that this case would be dismissed unless the Debtor(s), by a date certain, supplemented the Certification of Exigent Circumstances previously filed in order to satisfy the requirements of 11 U.S.C. §109(h)(3)(A)(i), (ii) and (iii),

**AND**, the deadline having passed and the Debtor(s) having failed to take the required action,

It is hereby **ORDERED** that

1. The above captioned bankruptcy case is **DISMISSED**.
2. The Debtor's counsel shall file the statement required by Fed. R. Bankr. P. 2016(b) within seven (7) of the entry of this Order (if it has not already been filed).

3. The court retains jurisdiction to consider the reasonableness of any compensation received by the Debtor's counsel. See 11 U.S.C. §329.
4. Pursuant to 11 U.S.C. §329(b), a hearing shall be held on **October 27, 2009, at 1:00 p.m. in Bankruptcy Courtroom No. 1, U.S. Courthouse, 900 Market Street, 2d Floor, Philadelphia, PA 19107** to consider the reasonableness of any compensation received by the Debtor's counsel.
5. **The Debtor's counsel SHALL APPEAR at the October 27, 2009 hearing.**



**Date:** October 9, 2009

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**ERIC L. FRANK  
U.S. BANKRUPTCY JUDGE**